

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0410

HOUSE BILL NO. 1047

Introduced by: The Committee on Commerce at the request of the Department of Revenue
and Regulation

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding creditable health
2 insurance coverage.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 58-17-69 be amended to read as follows:

5 58-17-69. For purposes of §§ 58-17-66 to 58-17-87, inclusive, the term, creditable coverage,
6 means benefits or coverage provided under:

7 (1) An employer-based health insurance or health benefit arrangement that provides
8 benefits similar to or exceeding benefits provided under the basic health benefit plan
9 or an employee welfare benefit plan as defined in section 3(1) of the Employee
10 Retirement Income Security Act of 1974 as adopted by the director pursuant to
11 chapter 1-26, to the extent that the plan provides directly or through insurance,
12 reimbursement or otherwise to employees or their dependents medical care for the
13 diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for
14 the purpose of affecting any structure or function of the body and amounts paid for
15 the transportation primarily for and essential to medical care;



- 1 (2) An individual health benefit plan, including coverage issued by any health
2 maintenance organization or pre-paid hospital or medical services plan that provides
3 benefits similar to or exceeding the benefits provided under the basic health benefit
4 plan as approved pursuant to chapter 1-26, but excluding limited benefit plans and
5 dread disease plans;
- 6 (3) Medicare or medicaid;
- 7 (4) Chapter 55 of Title 10, United States Code;
- 8 (5) A medical care program of the Indian Health Service or of a tribal organization;
- 9 (6) A state health benefits risk pool;
- 10 (7) A health plan offered under Chapter 89 of Title 5, United States Code;
- 11 (8) A public health plan;
- 12 (9) A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. 2504(e));
- 13 (10) A church plan;
- 14 (11) A college plan; ~~or~~
- 15 (12) A short term or limited duration plan; or
- 16 (13) An individual health benefit plan, including coverage issued by any health
17 maintenance organization or pre-paid hospital or medical services plan that provided
18 benefits less than the benefits provided under the basic health benefit plan as
19 approved pursuant to chapter 1-26, but excluding the following excepted benefits:
 - 20 (a) Coverage only for accident including accidental death and dismemberment;
 - 21 (b) Disability income insurance;
 - 22 (c) Liability insurance including general liability insurance and automobile
23 liability insurance;
 - 24 (d) Coverage issued as a supplement to liability insurance;

- 1 (e) Workers' compensation or similar insurance;
- 2 (f) Automobile medical payment insurance;
- 3 (g) Credit only insurance including mortgage insurance;
- 4 (h) Coverage for on-site medical clinics; and
- 5 (i) Limited scope dental and long-term care insurance, if provided under a
6 separate policy, certificate, or contract of insurance, or not otherwise an
7 integral part of a plan.

8 Section 2. That § 58-17-85 be amended to read as follows:

9 58-17-85. If a person has an aggregate of at least twelve months of creditable coverage, is
10 a resident of this state, and applies within sixty-three days of the date of losing prior creditable
11 coverage and is no longer eligible for that creditable coverage, the person is eligible for
12 coverage as provided for in §§ 58-17-68, 58-17-70, 58-17-85, and 58-17-113 to 58-17-142,
13 inclusive, if none of the following apply:

- 14 (1) The applicant is eligible for continuation of coverage under an employer plan;
- 15 (2) The applicant's creditable coverage is a conversion plan from an employer group
16 plan;
- 17 (3) The person is covered or eligible to be covered under creditable coverage or lost
18 creditable coverage due to nonpayment of premiums; ~~or~~
- 19 (4) The person loses coverage under a short term or limited duration plan; or
- 20 (5) The person's last coverage was creditable coverage as defined in subdivision 58-17-
21 69(13).

22 Any person who has exhausted continuation rights and who is eligible for conversion or
23 other individual or association coverage has the option of obtaining coverage pursuant to this
24 section or the conversion plan or other coverage. A person who is otherwise eligible for the

1 issuance of coverage pursuant to this section may not be required to show proof that coverage
2 was denied by another carrier.

3 For purposes of this section, reasonable evidence that the prospective enrollee is a resident
4 of this state shall be required. Factors that may be considered include a driver's license, voter
5 registration, and where the prospective enrollee resides.